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<NAME> Juanita Lindsay

<ADDRESS1> P.O. Box 13

<ADDRESS2>

<CITY> Callaway

<STATE> MN

<ZIP> 56521

<LAW-FIRM>

<ATTORNEY>

<FILE-NUMBER>

<DOCUMENT-TYPE> Co

<PHONE-NUMBER> 218-983-3879

<DESCRIPTION>

<CONTACT-EMAIL> cherokeeupnorth@gmail.com

<TEXT>

In response to GN Docket No. 09-40

It should be ensured, that the most under-served areas of our nation get sustainable broadband services first, rather than have these communities continue to be after thoughts and fall further behind this nations population. Funding should go to the most underserved, poverty stricken areas with the highest rate of unemployment, which is generally Indian Country and Tribal lands. In order to include tribal participation it is crucial to understand the Indian Law principles that make Tribes unique.

It is well established that tribal nations are inherently sovereign nations that have the powers to govern within their jurisdiction. See, *McClanahan v. Arizona Tax Commission*, 411 U. S. 164 168-73 (1973). Tribes are described as "distinct political communities, having territorial boundaries, within which their authority is exclusive, and having a right to all the lands within those boundaries, which is not only acknowledged, but guaranteed by the United States." It is equally well-established that the Federal government has a "trust responsibility" to insure that the health, education and welfare of tribal citizens are provided. This trust

responsibility has been fostered by years of treaties, laws, policies and case law. In accordance with recent Federal government philosophy, notably the notion of self-determination and tribal self-governance, the Federal government recognizes that the tribal governments are the best suited and knowledgeable for serving the needs of their tribe's citizens. Tribal self-determination and self-governance principals are affirmed by the fact that the Federal government grants money and contracts to the tribes so that the tribes have the tools necessary to provide for their citizens.

Thus, the trust

responsibility has been interpreted by the Federal government to including granting the necessary tools directly to tribal governments to fulfill the health, education and welfare obligation embodied in the trust responsibility.

Despite the Trust Responsibility, many tribes, tribal citizens and others living on or near tribal lands, and Alaska Native Villages remain economically disadvantaged. Extreme poverty leaves these communities without essential infrastructure such as telecommunications, which includes broadband internet, media and telephone services. Telecommunications, especially broadband, affords the essential infrastructure tribal nations need to provide to their citizens with education, health care, and economic viability.

The lack of broadband disproportionately impacts Tribal Nations who need broadband the most. The tribes need broadband more than any other government, because they are grant funded, due to historical legal circumstance that have left tribes reliant on grants and contracts for many of its governmental functions and to obtain grants or contracts you need broadband. For example, tribes rely on grants from the Department of Housing and Urban Development to provide housing for their citizens and tribes contract with the Bureau of Indian Affairs to maintain its tribal rolls and land data. Yet tribal areas are still the most underserved areas in the United States. Fixing these issues will take more than a fundamental understanding about tribes; it will take a change in mindset by the agency and the broadband community. Inflexibility, historical philosophies, jurisdictional disputes and lack of

concern have caused this digital divide to remain unchanged in the last eight years.

It is important for those who live in some of the poorest and most isolated areas of the country to gain broadband in their areas for increased jobs, communications, education, health services, business development, security, and many other opportunities that will allow them to sustain their communities.

Unfortunately, states often overlook Tribal Lands when collecting data or creating plans. Therefore it is important to point out that states and local governments should not be relied upon to insure tribal lands are included in their broadband plans. States and local governments do not represent tribal constituents or consumers and thus have no reason to include tribal citizens and consumer in their thought processes. It is within the regulatory discretion of each agency to have a (3%) three percent tribal set aside. This set aside correlates with the tribal population in the United States. Although not all tribal people live on tribal lands, most would move back to the tribal areas once broadband is delivered. This request is in the best interest of the public, justified by public policy and consistent with the principles of Indian law and policy as set forth in each agencies Indian policy.

While making sure that broadband spreads through tribal areas is important, also needed, is to make sure that plans for permanent, sustainable and most state of the art technology is funded. The poorest and least served should not get the worst and slowest service; these consumers should get the best in order to have tools necessary to improve life. Education and training should also be included in the funding if it is to be sustaining for our communities. Broadband plans must be designed to create other network opportunities including public safety needs, upgrades and media.

Sincerely,

Juanita Lindsay  
Native Star Network

(White Earth Reservation – Minnesota)